

330.192 Auctioneer's education, research, and recovery fund -- Annual charges and assessments -- Purpose -- Use -- Coverage of licensees.

- (1)
 - (a) There is hereby created and established in the State Treasury the auctioneer's education, research, and recovery fund.
 - (b) In addition to the license fees provided for in KRS 330.070, upon renewal of every license issued pursuant to this chapter, the board shall charge every licensee an amount not to exceed thirty dollars (\$30) per year to be included in the auctioneer's education, research, and recovery fund. Every original applicant for apprentice or auctioneer's license, and every applicant for an auction house operator's license on and after July 15, 1982, shall likewise submit to the board an additional fee of thirty dollars (\$30) to be deposited in the auctioneer's education, research, and recovery fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal date.
 - (c) In addition to the license fees provided for in KRS 330.070, the board, based upon its own discretion as to need, may assess each licensee upon renewal an amount equal to or less than thirty dollars (\$30) per year, or nothing, but not more. Each original applicant shall pay the original amount of thirty dollars (\$30), but upon renewal shall pay the same fee as other licensees.
- (2) The purposes of the auctioneer's education, research, and recovery fund shall be as follows:
 - (a) When a licensee has been duly found guilty of violating any one (1) or more of the provisions of KRS 330.110, or any one (1) or more of the administrative regulations duly promulgated by the board, and upon the conclusion of a final order entered by the board or by the courts, if appealed, the board is authorized to pay to the aggrieved person or persons an aggregate amount not to exceed fifty thousand dollars (\$50,000) against any one (1) licensee, provided that the licensee has refused to pay such claim within a period of twenty (20) days of entry of a final order and provided further that the amount or amounts of money in question are certain and liquidated.
 - (b) The board shall maintain a minimum level of five hundred thousand dollars (\$500,000) for recovery and guaranty purposes. These funds may be invested and reinvested in the same manner as funds of the State Employees' Retirement System and the interest from said investments shall be deposited to the credit of the research and recovery fund, or, in the discretion of the board, to the agency fund account as set out in KRS 330.050(6). Sufficient liquidity, however, will be maintained so that there will be money available to satisfy any and all claims which may be processed through the board by means of administrative hearing as outlined in this chapter.
 - (c) The board, in its discretion, may use any funds in excess of the five hundred thousand dollar (\$500,000) level, regardless of whether it is from the auctioneer's education, research, and recovery fund fees or accrued interest thereon, for any of the following purposes:

1. To carry out the advancement of education and research in the auction field for the benefit of those licensed under the provisions of this chapter and the improvement and making even more efficient the auction industry as such;
 2. To underwrite educational seminars, caravans, and other forms of educational projects for the use and benefit generally of auctioneer licensees;
 3. To establish an auction chair or courses at Kentucky state institutions of higher learning for the purpose of making such courses available to licensees and the general public who may seek same on a college or university level;
 4. To contract for a particular research project in the auction field for the Commonwealth of Kentucky;
 5. To sponsor, contract for, and to underwrite any and all other educational and research projects of a similar nature having to do with the advancement of the auction field in Kentucky;
 6. To cooperate with associations of auctioneers and any other groups for the enlightenment and advancement of the auctioneer licensees of Kentucky; and
 7. To increase the level of the auctioneer's education, research, and recovery fund above five hundred thousand dollars (\$500,000);
 8. To augment the regular trust and agency account of the board.
- (3) (a) In the event that a licensee is found guilty of one (1) or more provisions of KRS 330.110 or of violating one (1) or more of the administrative regulations of the board, and if the amount of the money lost by the aggrieved party or parties is in dispute or cannot be determined accurately, then the amount of damages shall be determined by a Circuit Court in the county where the alleged violation took place, provided that the board has previously determined that a violation of the license laws or of the administrative regulations has occurred and a final order has been entered.
- (b) If such an order has been entered and the license rights of the licensee have been finally adjudicated, then the local Circuit Court shall make a finding as to the monetary damages growing out of the aforesaid violation or violations.
- (c) When a final order has been entered by the Circuit Court, Court of Appeals, or Supreme Court, and upon certification to the board, the aggrieved party or parties shall be paid such amount or amounts in the aggregate not to exceed fifty thousand dollars (\$50,000) by the board, and the license held by the licensee against whom the claim was made by the aggrieved party shall be suspended at least until such time as the licensee has reimbursed the auctioneer's education, research, and recovery fund for all amounts paid to the aggrieved party due to the violation of the licensee.
- (d) When, upon the final order of the court, the board has paid from the auctioneer's education, research, and recovery fund any sum to the aggrieved

party, the board shall be subrogated to all of the rights of the aggrieved party to the extent of the payment and the aggrieved party shall, to the extent of the payment, assign his right, title, and interest in the judgment to the commission.

- (e) Any funds in excess of the five hundred thousand dollar (\$500,000) level and which are not being currently used, may be invested and reinvested as set forth in subsection (2)(b) of this section, or, in the discretion of the board, may be utilized for any of the purposes enumerated in subsection (2)(c) of this section.
 - (f) All the claims for monetary damages or relief from the auctioneer's education, research, and recovery fund must be made in writing on a proof of loss form submitted to the board within six (6) months of the act of the auctioneer giving rise to the loss. Failure to file such claims within the six (6) month period shall bar the claim. Additional evidence will be submitted by the claimant if required by the board.
 - (g) Notwithstanding any other provisions of this chapter, no unreimbursed amount greater than fifty thousand dollars (\$50,000) shall be paid by the board on account of any one (1) licensee, no matter over how long a time, or for how many claims, and no matter what the number of claimants be or the size of such claims, individually or in the aggregate. Should the licensee reimburse the fund for all amounts paid, then future claims timely filed with the board concerning different matters may be received pursuant to this section.
 - (h) No claims shall be approved under this section for amounts which, in the aggregate, exceed the maximum payable on account of any one (1) licensee in effect at the time of the act or acts of the licensee giving rise to the claims, except to the extent of said maximum. Statutory increases in the maximum set out in this section do not apply retroactively.
- (4) All categories of licensees under this chapter are covered under the provisions of this section for the benefit and protection of the public.
 - (5) This section is not intended to substitute for, circumvent, or duplicate other remedies existing at law or otherwise for claimants or potential claimants, but constitutes a last resort for aggrieved persons who would not, but for the provisions of this section, be able to recover their losses by any other means available. The board shall have full discretion to require that claimants exhaust all other remedies prior to proceeding under this section, including, but not limited to, the remedy of obtaining a judgment by all diligent and appropriate means.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 285, sec. 9, effective July 15, 1998. -- Amended 1992 Ky. Acts ch. 344, sec. 15, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 170, sec. 15, effective July 13, 1990. -- Amended 1984 Ky. Acts ch. 407, sec. 9, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 79, sec. 5, effective July 15, 1982.

2004-2006 Budget Reference. See State/Executive Branch Budget, 2005 Ky. Acts ch. 173, pt. V, A.13., at 3151; and State/Executive Branch Budget Memorandum, 2005 Ky. Acts ch. 170, at 1578 (Final Budget Memorandum, at 7).